

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA**

WILLIAM REECE, ET AL.,)	
)	
Plaintiff,)	
vs.)	NO. CIV-12-0457-JH
)	
AES CORPORATION, ET AL.,)	
)	
Defendants.)	

ORDER


Plaintiffs filed this case in state court as a putative class action against companies involved in the generation, transportation and disposal of coal combustion waste and oil and gas drilling waste fluids. Plaintiffs sued five groups of defendants. The AES defendant group consists of AES Corporation and two of its subsidiaries: AES Shady Point, Inc. and AES Shady Point, LLC, which own and operate the Shady Point Plant (“AES defendants”). A second group, the MMHF defendants, includes Making Money Having Fun, LLC, the owner/operator of a commercial disposal pit located on land owned by Thumbs Up Ranch, LLC, where the bulk of the fly ash generated at the Shady Point Plant was taken, and MMHF and the ranch’s owners, the Jacksons. Oil and gas companies with wells and drilling operations in Oklahoma and Arkansas that generated fluid waste that was disposed of at the MMHF disposal facility make up another defendant group (“oil producers”). The remaining groups consist of trucking companies that hauled coal to the Shady Point Plant and then transported and disposed of fly ash from it or companies that transported fluid waste from oil and gas drilling operations to the MMHF Facility.

XTO Energy, Inc. removed the case to federal court pursuant to the Class Action Fairness Act, after plaintiffs amended their petition to add it and other defendants. Several defendants filed motions to dismiss, which the court granted but with leave to amend. Plaintiffs then filed their first amended complaint and more motions to dismiss were filed. By order entered on January 8, 2014, the court dismissed with prejudice plaintiffs' strict liability claims against all but the MMHF defendants. Plaintiffs' negligence per se claims also were dismissed with prejudice. Plaintiffs' claims against the trucking companies – both the transporters of coal/coal combustion waste and oil and gas drilling fluid waste – were dismissed. The court deferred its decision as to whether plaintiffs' claims against the remaining defendants, the AES defendants, the MMHF defendants and the oil producers, should be dismissed. It had determined that plaintiffs' allegations of injury were inadequate and granted them fifteen days to supplement their amended complaint with factual allegations identifying specific injuries or property damage suffered by specific plaintiffs.

Plaintiffs have not supplemented their amended complaint as directed. Accordingly, the remaining claims are **DISMISSED WITHOUT PREJUDICE**.

IT IS SO ORDERED.

Dated this 28th day of January, 2014.



JOE HEATON
UNITED STATES DISTRICT JUDGE